IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.274 OF 2005

Mardia Metals Agency & Ors. ..Applicants

Vs.

Bombay Alloy Steel Ind.
Pvt.Ltd. & Ors. ..Respondents

...

Mr.Anil Agarwal Advocate for Applicants
Ms.Manorama Mohanty i/b M/s.S.K.Srivastava & Co.
for Respondent no.1
Mr.S.R.Shinde, A.P.P.for the State

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CORAM: SMT.V.K.TAHILRAMANI,J.
DATE : AUGUST 30,2005

P.C.

1. Heard the learned advocate for the applicants, the learned advocate for respondent no.1 and the learned A.P.P. for the State.

2. The applicants are seeking quashing of proceedings relating to Criminal Case No.916/S/2000 pending before the learned Metropolitan Magistrate, 28th Court, Esplanade, Mumbai. In the said case, process has been issued against the applicants

under Sections 138 r.w. 142 of Negotiable Instruments Act. The learned advocate for the applicants submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the applicant is set aside, the proceedings in respect of the applicants, would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 in W.P.No. 213 of 2005 and dated 21st June, 2005 in Cri.Application No.550 of 2005, I am of the opinion that the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my view, it would be appropriate that the applicants prefer a revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicant to prefer the necessary revision before the concerned Sessions Court. The learned advocate for the applicants makes a statement that the necessary

revision will be preferred within four weeks from today. I am informed that next date before the trial Court is 15.9.2005. In view of the statement that the revision will be preferred within four weeks, the trial Court shall not proceed with the trial on 15.9.2005 and thereafter also for a period of two weeks.

. The learned advocate for the respondent no.1-complainant fairly states that no objection will be raised in respect of delay in filing the revision.

5. The learned advocate for the applicants states that Non-bailable warrants (NBWs) came to be issued against the applicants. It is prayed that the said NBWs be quashed. I am not inclined to quash NBWs as in my opinion, it would be appropriate that the applicants prefer application before the trial Court for setting aside the said NBWs.

6. Liberty is granted to the applicants to prefer the necessary applications before the trial Court. The learned advocate for the applicants states that

the necessary application for setting aside the NBWs will be preferred within five weeks from today. In order to enable the applicants to take necessary steps for setting aside NBWs, the said NBWs are stayed for a period of five weeks from today.

7. Application is disposed of.

[V.K.TAHILRAMANI,J.]